

REMARKS/ARGUMENTS

I. General Remarks.

Applicants respectfully request that the above amendments be entered and further request reconsideration of the application in view of the amendments and the remarks contained herein.

II. Disposition of the Claims.

Claims 1-20 are pending. Claims 1-20 stand rejected. Claim 10 has been amended herein. Applicants reserve their rights to take up prosecution on the claims as originally filed in this or an appropriate continuation, continuation-in-part, or divisional application.

All the above amendments are supported by the specification as filed, and are made in a good faith effort to advance the prosecution on the merits of this case. The claims should now be in condition for allowance. Applicants respectfully request a timely notice of the same.

III. Remarks Regarding the Rejection of Claims 1-2, 4-11, and 13-18 Under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1-2, 4-11, and 13-18 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,302,209 issued to Thompson, Sr. et al ("*Thompson*"). (Office Action at 2.) With respect to *Thompson*, the Examiner states:

[*Thompson*] teaches in the abstract and in column 4, lines 42 -67 a method of mixing a polymer precipitation and coagulation preventing surfactant with said aqueous saline fluid solution and introducing the treating fluid into a subterranean zone. The reference also teaches that the aqueous saline fluid can be brine.

(Office Action at 2.) Applicants respectfully disagree because *Thompson* does not teach or suggest each and every claim limitation as required to anticipate the claims under § 102(b). *See Manual of Patent Examining Procedure* § 2131 (8th ed., rev. 2, May 2004) (hereinafter "MPEP").

With respect to independent claim 1, this claim recites the step of "combining said water-in-oil emulsion polymer with said aqueous saline fluid solution." As recited in claim 1, said aqueous saline fluid solution is formed by "mixing a polymer precipitation and coagulation

preventing surfactant with said aqueous saline fluid to form an aqueous saline fluid solution.” Rather than disclosing the recited steps, *Thompson* is directed to:

[S]urfactant compositions comprising suspensions of solid surfactants. In particular, this invention relates to suspensions of a solid surfactant, such as an alpha olefin sulfonate, in an organic base fluid, such as diesel or vegetable oil. These suspensions may be optionally combined with additive materials, such as polymers, and/or with aqueous carrier fluids.”

(*Thompson*, Col. 1, ll. 14-19.) With respect to the polymers, *Thompson* discloses that the polymer may be “an additive particle that may be suspended in the organic base fluid.” (*Thompson*, Col. 4, ll. 29-31.) Nowhere does *Thompson* disclose or suggest the use of a water-in-oil emulsion polymer as recited in independent claim 1. Nor does *Thompson* disclose or suggest combining this water-in-oil emulsion polymer with the recited aqueous saline fluid solution. *Thompson* thus does not teach or suggest the step of “combining said water-in-oil emulsion polymer with said aqueous saline fluid solution” as recited in independent claim 1.

Regarding independent claim 10, this claim recites the step of “preparing a treating fluid comprising . . . a water-in-oil emulsion polymer.” Rather than disclosing a water-in-oil polymer, *Thompson* discloses that the polymer is an additive particle that may be suspended in the organic base fluid. (*Thompson*, Col. 4, ll. 29-31.) Thus, *Thompson* does not teach or suggest the recited treating fluid. Furthermore, independent claim 10 has been amended to recite that “preparing said treating fluid comprises the step of: combining said water-in-oil emulsion polymer with an aqueous saline fluid solution comprising said aqueous saline fluid and said polymer precipitation and coagulation preventing surfactant.” As discussed above with respect to independent claim 1, *Thompson* does not disclose or suggest combining said water-in-oil emulsion polymer with the recited aqueous saline fluid solution. Accordingly, *Thompson* does not teach or suggest each and every limitation of independent claim 10.

Therefore, Applicants respectfully assert that independent claims 1 and 10 are not anticipated by *Thompson*. Claims 2, 4-9, 11, and 13-18 depend either directly or indirectly on independent claim 1 or 10. All these dependent claims, which include all the limitations of their corresponding independent claim, are allowable for at least the reasons cited above with respect to independent claims 1 and 10. Accordingly, the Applicants respectfully request withdrawal of this rejection with respect to claims 1-2, 4-11, and 13-18.

III. Remarks Regarding the Rejection of Claims 3 and 12 Under 35 U.S.C. § 103(a).

The Examiner has rejected claims 3 and 12 under 35 U.S.C. § 103(a) as obvious over *Thompson* in view of U.S. Patent No. 5,507,344 issued to Young et al ("*Young*"). (Office Action at 3.) Applicants respectfully traverse because the Examiner has not established a *prima facie* case of obviousness in that the cited references do not teach or suggest each and every claim limitation. See MPEP § 2142.

In particular, *Thompson* in view of *Young* does not teach or suggest the step of "combining said water-in-oil emulsion polymer with said aqueous saline fluid solution" as recited in independent claim 1, upon which claim 3 depends either directly or indirectly. As discussed above with respect to the § 102(b) rejection of claim 1, *Thompson* does not disclose this recitation. See discussion *supra* Part II. Nor can *Young* be used to supply this missing recitation. The Examiner relied on *Young* for the disclosure of "the use of seawater as an aqueous saline fluid. (Office Action at 4.) Accordingly, *Thompson* in view of *Young* does not teach or suggest each and every limitation of independent claim 1.

Furthermore, *Thompson* does not teach or suggest the step of "preparing a treating fluid comprising an aqueous saline fluid, a polymer precipitation and coagulation preventing surfactant and a water-in-oil emulsion polymer" as recited in independent claim 10, upon which claim 12 depends either directly or indirectly. As discussed above with respect to the § 102(b) rejection of claim 10, *Thompson* does not disclose this step. See discussion *supra* Part II. In addition, independent claim 10 has been amended to recite that "preparing said treating fluid comprises the step of: combining said water-in-oil emulsion polymer with an aqueous saline fluid solution comprising said aqueous saline fluid and said polymer precipitation and coagulation preventing surfactant." As discussed above with respect to the § 102(b) rejection of claim 10, *Thompson* does not disclose this recitation. See discussion *supra* Part II. Nor can *Young* be used to supply these missing recitations of independent claim 10. The Examiner relied on *Young* for the disclosure of "the use of seawater as an aqueous saline fluid. (Office Action at 4.) Therefore, *Thompson* in view of *Young* does not teach or suggest each and every recitation of independent claim 10.

For the foregoing reasons, *Thompson* in view of *Young* cannot be used to obviate independent claims 1 and 10 under § 103(a). "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." See MPEP § 2143.03.

Accordingly, dependent claims 3 and 12 are not obvious over *Thompson* in view of *Young*, and Applicants thus respectfully request withdrawal of this rejection with respect to claims 3 and 12.

IV. Remarks Regarding the Rejection of Claims 19-20 Under 35 U.S.C. § 103(a).

The Examiner has rejected claims 19 and 20 under 35 U.S.C. § 103(a) as obvious over *Thompson* in view of U.S. PG Pub. No. 2002/0096090 A1 ("*Chatterji*"). Applicants respectfully traverse because the Examiner has not established a *prima facie* case of obviousness in that the cited references do not teach or suggest each and every claim limitation. See MPEP § 2142.

First, *Thompson* does not teach or suggest the step of "preparing a treating fluid comprising an aqueous saline fluid, a polymer precipitation and coagulation preventing surfactant and a water-in-oil emulsion polymer" as recited in independent claim 10, upon which claims 19 and 20 depend either directly or indirectly. As discussed above with respect to the § 102(b) rejection of claim 10, *Thompson* does not disclose this step. See discussion *supra* Part II. In addition, independent claim 10 has been amended to recite that "preparing said treating fluid comprises the step of: combining said water-in-oil emulsion polymer with an aqueous saline fluid solution comprising said aqueous saline fluid and said polymer precipitation and coagulation preventing surfactant." As discussed above with respect to the § 102(b) rejection of claim 10, *Thompson* also does not disclose this recitation. See discussion *supra* Part II.

Nor can *Chatterji* be used to supply these missing recitations. The Examiner relied on *Chatterji* for the disclosure of "the use of Portland cement as a specific hydraulic cement material." (Office Action at 4.)

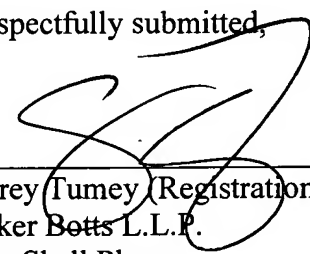
Accordingly, the combination of *Thompson* and *Chatterji* does not teach each and every recitation of Applicants' invention and, consequently, cannot be used to form the basis of a *prima facie* case of obviousness against independent claim 10. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." See MPEP § 2143.03. Accordingly, independent claim 12 is not obvious over *Thompson* in view of *Chatterji*, and Applicants respectfully request withdrawal of this rejection with respect to claims 19-20.

SUMMARY

In light of the above remarks and amendments, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that there are no fees due in association with the filing of this Response. However, should the Commissioner deem that any fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to Baker Botts L.L.P. Deposit Account No. 02-0383, (*formerly Baker & Botts, L.L.P.*) Order Number 063718.0880.

Respectfully submitted,



Corey Tumey (Registration No. 57,079)
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, Texas 77002
Telephone: 713.229.1469
Facsimile: 713.229.2769
ATTORNEY FOR APPLICANTS

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